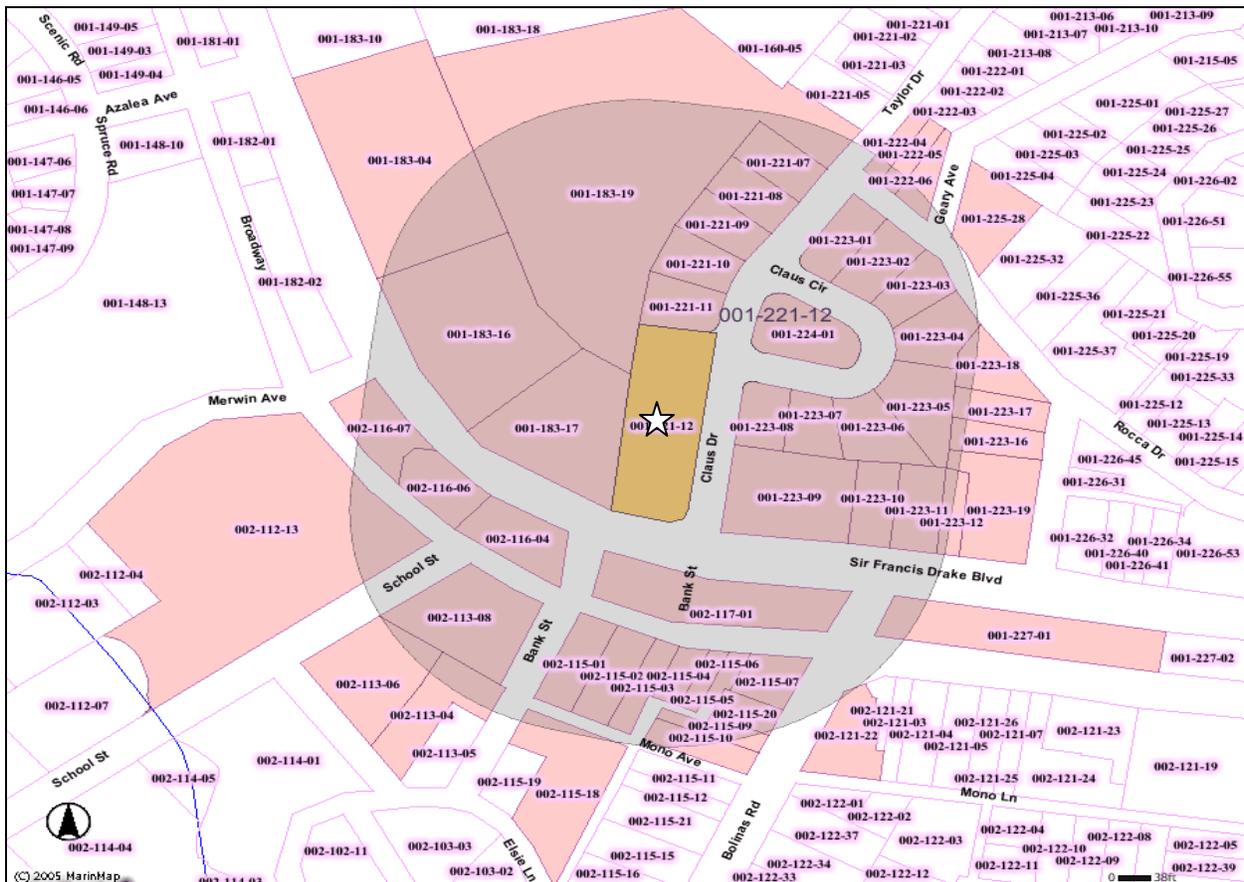


# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** July 18, 2013  
**FROM:** Jim Moore, Director of Planning and Building Services  
 Linda Neal, Senior Planner  
**LOCATION:** 1966 Sir Francis Drake Blvd.; Assessor's Parcel No. 001-221-12  
**PROJECT:** Mixed Use of existing commercial building  
**ACTION:** Use Permit and Design Review; Application # 13-16  
**APPLICANT:** Morgan Hall, Architect  
**OWNER:** Mark Squire  
**CEQA STATUS:** Categorically exempt, § 15301(a)



## 1966 SIR FRANCIS DRAKE BOULEVARD

## **BACKGROUND**

The 21,840 square foot site has a slope of 4 % and is developed with an existing 7,200 square foot, two story structure that was previously used as a grocery store and associated grocery store offices and storage (second floor). The rear 2,700 square feet of the building is still being used by two wholesale food companies, Easy Living Foods and Wild West Ferments.

In 1999 the Good Earth Natural Foods grocery store obtained a Use Permit and Design Review approval to relocate from Bolinas Road to 1966 Sir Francis Drake Boulevard. The approval included a 6 foot fence to screen the dumpster and garbage receptacles kept at the rear of the building.

## **DISCUSSION**

The applicant is proposing to remodel the structure, dividing it into three (3) separate commercial spaces with one (1) living unit on the second floor, accessed from the rear of the building. The front 2,700 square feet are proposed for use as a bicycle museum and will include a 560 square foot loft area accessed by a pull down ladder for bike storage, the middle 1,800 square feet are proposed for use as some type of office space and the rear 2,700 square feet will be used as a commercial kitchen/wholesale food production use.

The site zoning was changed from Highway Commercial (CH) to Central Commercial (CC) with the adoption of the 2010 to 2030 Fairfax General Plan in April of 2012 which included a revised Zoning Map.

There are no proposed expansions of the building. The three air sea land containers and walk in refrigerator currently located at the rear of the site continue to be used by the existing wholesale food operations and the existing building setbacks are not being modified nor is the height of the building being changed.

A review of Town Records failed to uncover evidence of a design review approval, setback variance or building permit being obtained for the roof and framing of a large shade/screening structure at the rear of the property. The property owner must: a) provide proof the required permits were granted for the structure; b) remove the structure; or c) obtain the require Planning Commission entitlements and building permit for the structure.

### **Use Permit**

The purpose of the Conditional Use Permit process is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the Town or in a zone or only if the uses are designed or laid out on the site in a particular manner. In considering a Use Permit application, the Commission shall consider the nature and condition of all adjacent uses and structures, the physical environment of the proposed uses and to all aspects of the public health, safety and general welfare [Town Code sections 17.032.010(B) and (B)].

None of the proposed uses are listed as permitted on the ground floor in the Central Commercial Zone District. Town Code § 17.100.050(D) indicates that offices are allowed on the ground floor with a Use Permit, and Town Code § 17.100.050(F) indicates that uses which combine wholesale and retail or wholesale and service uses require a Use Permit from the Planning Commission as well. Therefore, staff has determined that the mixed use combining a bicycle museum, ground floor office, commercial kitchen for wholesale food preparation and an upstairs residential living unit requires a Use Permit.

Dividing the building into three separate uses will require the application and approval of a Lot Line Adjustment in order to meet exiting, building code and fire code regulations. A lot line adjustment application has yet to be submitted to the Town and has been included as a recommended condition of approval should this application be approved.

To the west of the site is The Garage which sells local artists artwork, to the north west is Bennet House, a multiple unit low income and senior housing complex, single-family residences are located directly to the north and northeast, a gas/vehicle service business is located east of the site and the Parkade, a public parking lot, is located to the southeast. Another vacant gas station and smaller public parking lot are located directly south of the site across Sir Francis Drake Boulevard.

The proposed operating hours are as follows and should not conflict with the operation or residential use of the surrounding properties:

- Museum, Thursday through Monday from 11:00 AM to 7:00 PM.
- Office, 9:00 AM to 5:00 PM
- Wholesale/Commercial kitchen, 8:00 AM to 6:00 PM

The Central Commercial Zoned areas of Town designate the central business district and retail commercial heart of the town. It should contain the most valuable land and structures, on a square foot basis, of any zone and should cater to and invite pedestrian traffic. The proposed mix of commercial businesses, with the bicycle museum at the front facing the Sir Francis Drake public sidewalk, will cater to pedestrians while allowing the rear of the building to be used profitably as general office space, a wholesale commercial kitchen with one (1) residential living unit, a permitted use, upstairs. The proposal meets the intent of the Central Commercial CC Zoning. Also, the uses will not conflict with the residential and commercial uses surrounding it by having extended operating hours, generating traffic beyond what previously visited the site when it was a grocery store, or creating an increased need for parking. (see parking discussion below).

## **Traffic**

Town Code § 17.056.050(A)(2) indicates that a traffic impact study is required if a project or projected use of a building will generate more than 100 average daily trips (ADT) beyond that generated by the previous use. The previous occupants of the building, Good Earth Natural Food Store, provided information regarding the average number of daily trips the store generated and

the number of trips was 1,250. The proposed multiple uses of the structure will generate the following traffic amounts (includes expected staff and customers/clients):

	Average daily trips by staff and customers/clients
Museum	84
Office space	18
Commercial kitchen	16
Living unit	6
Total Number of Trips Generated	124

The proposed mixed use of the building will generate 124 average dialing trips to the property which is 1,126 trips less than the number generated by the previous grocery store use of the building. Therefore, the project will not impact traffic and does not require the approval of a traffic impact permit.

**Parking & Loading Spaces**

Town Code § 17.052.030 indicates that where a parcel will include two or more uses, the parking requirements shall be the aggregate of the requirements for the various uses.

The parking requirements for the various uses are as follows:

1. Town Code § 17.052.030(E) requires one (1) parking space for each 300 square feet of gross floor area for exhibition halls such as the museum (9 spaces required);
2. Town Code § 17.052.030(G) requires three (3) spaces for the first 500 square feet and one (1) space for each 500 square feet thereafter for office uses (6 spaces required);
3. Town Code § 17.052.030(K) requires one (1) space for every two (2) employees for wholesale uses (5 spaces required); and
4. Town Code § 17.052 030(A)(1)(b) requires two (2) spaces for one (1) bedroom apartments and one (1) guest parking space (3 spaces required).

Town Code § 17.052, Appendix B, requires that 10,000 to 50,000 square foot buildings used for offices/wholesale uses be provided with one (1) small, 10 ft by 10 ft, loading space and one (1) large, 12 ft by 40 ft, loading space.

The proposed mixed use will require 23 spaces for vehicles and a small and large loading zone. The site proposes twenty-seven (27) parking spaces, one (1) small loading space adjacent to residential unit parking at the north east corner of the site and one (1) large loading space perpendicular to the loading ramp and west of the residential parking spaces.

Therefore, the proposal complies with the parking required by the Parking Ordinance, Town Code Chapter 17.052.

## **Design Review**

Town Code § 17.020.030(B) requires that new construction in the Central Commercial Zone be reviewed and approved by the Design Review Board. In reviewing a project the Commission must make the determination that the new construction/exterior changes comply with the Design Review Criteria in Town Code § 17.020.040.

The following changes are proposed to the exterior of the building:

A new ramp, requiring the approval of a lot line adjustment between 1966 and 2000 Sir Francis Drake Boulevard, is proposed to provide egress from the rear commercial spaces. The California Building Code does not allow openings in structures unless they maintain at least a five (5) foot setback from a property line. Rear exit doors are also required for the two rear commercial spaces due to their size. Two (2) new exit doors are proposed, one for the office space and 1 for the commercial kitchen space and five (5) new windows are proposed for the office area on the west side of the building.

Five (5) windows will be added to the north side of the building to provide natural light for the second floor residential unit.

Two (2) ft tall retaining walls with guardrails on top will be built along the eastern and western sides of the building to provide accessible access to and egress from the two rear commercial spaces. A stairway will be included immediately adjacent to the door to the office space on the east side which will access the eastern parking lot and join a pedestrian pathway that connects the building to the Clause Drive public sidewalk. The wall will be concrete and painted to match the exterior of the building.

The green awning at the front of the building will be replaced with corrugated metal fascia band painted metallic silver, the trim will be aluminum with the mill finish and the existing bollards, guardrails and lights will be painted an aluminum color to match the trim. The new windows on the north side of the building will be white vinyl.

The brick on the front of the building will remain in its natural state and the color of the stucco on the southern, eastern and western sides of the building will remain the same as follows:

- north elevation shades of tan – body color, Benjamin Moore # 1214, band color, Benjamin Moore # 1215
- East and West elevations shades of tan– body color, Benjamin Moore # 1214, band color, Benjamin Moore # 1215

- South elevation – Benjamin Moore 1202.

## **Landscaping**

One small tree will need to be removed to construct the stairs leading from the office space and accessible ramp to the parking lot. A replacement tree (*Cercis occidentalis*) will be planted in the southeastern landscaping bed. Three new native landscaping shrubs that are drought tolerant are proposed for the southeast planter.

## **Other Agency/Department Comments**

### **Building Official**

A lot line adjustment must be approved and the map recorded at the Marin County Recorder's office prior to *issuance* of any building permits for the office or the wholesale kitchen areas.

### **Ross Valley Fire Department**

An automatic sprinkler system will need to be installed as well as a full fire alarm system. The current system may be able to be modified to meet current requirements.

A lot line adjustment is required in order for the project to comply with building and fire codes.

A certificate of occupancy must be obtained from the Fairfax Building Department prior to any of the spaces in the building being occupied.

### **Ross Valley Sanitary District**

A connection permit is required from the District and the required size of the sewer lateral will depend on the fixture count calculated during the building permitting process. If the existing lateral is the appropriate size it will need to be tested in the presence of a District Officer and found to meet District requirement, or a new lateral will need to be installed.

### **Marin Municipal Water District**

The District recommends installation of a separate water meter for the residential unit.

All into and outdoor improvements, including landscaping and irrigation, must comply with District Code Title 13, Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements and landscaping plans must be reviewed and approved by the District for compliance.

Should backflow protection be required, it shall be installed as a condition of water service.

## **RECOMMENDATION**

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 13-16 by adopting the attached Resolution No. 13-6 setting forth the findings and conditions of approval.

## **ATTACHMENTS**

Exhibit A – applicant’s supplemental information and plans  
Exhibit B – other agency/department conditions

## **RESOLUTION NO. 13-6**

### **A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit for Mixed Use Development of an Existing Commercial Structure at 1966 Sir Francis Drake Boulevard Combining a Museum, Office Space, A Commercial Kitchen and a Second Story Residential Unit**

**WHEREAS**, the Town of Fairfax has received an application to approved a mixed use development of the existing commercial building at 1966 Sir Francis Drake Boulevard to include a museum, office space, a commercial kitchen and one (1) living unit; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on July 18, 2013 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Use Permit and Design Review permits for the proposal; and

**WHEREAS**, based on the documentary evidence in the record, as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary Use Permit and Design Review Permit; and

**WHEREAS**, the Commission has made the following findings:

1. Approval of the use permit is consistent with those objectives, goals or standards pertinent to the particular case and contained or set forth in the Fairfax General Plan (GP) and Town Zoning Ordinance as follows:

- GP Land-use Goal LU-7, the mixed use will preserve the community and Claus Circle neighborhood character because the proposed uses will not generate a significant amount of the traffic or increased need for parking and will result in only minor exterior changes to the building.
- GP Land-use Policy 7.1.3, the mixed use combines commercial and residential use on this site located in the Central Commercial Zone.
- GP Housing Element Goal H-3, the project will create a one bedroom residential unit within walking distance of public transportation and local stores and businesses. Residents of the unit will therefore, not be dependent on automobile travel.
- GP Town Center Element Policy 2.1.2, the renewed use of this commercial building does not increase the building height and results in a two story building with architectural details compatible with the village character of the Town.
- GP Town Center Element Policy 3.2.12, the project will include new landscaping that is native and drought tolerant.

2. The approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

3. The business hours of operation are as follows and will not conflict with the uses of the adjacent residential and commercial properties:

- Museum, Thursday through Monday from 11:00 AM to 7:00 PM.
- Office, 9:00 AM to 5:00 PM
- Wholesale/Commercial kitchen, 8:00 AM to 6:00 PM

Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

4. Neither present nor anticipated future traffic volumes generated by the use of the site for the proposed museum/office/commercial kitchen mixed use will rise to the level of significance where a traffic impact permit is required.

5. The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

6. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

7. The proposed parking and loading zones comply with the Town Parking Ordinance, Town Code Chapter 17.052.

8. The proposed development will create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community and complied with the design criteria of the Town Code.

9. The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.

10. There is sufficient variety in the design of the structure and grounds to avoid monotony in external appearance of the building.

11. The proposed exterior changes and landscaping comply with the Design Review Criteria set forth in Town Code § 17.020.040.

**WHEREAS**, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. Any change in any of the uses from a museum, general office space and wholesale commercial kitchen use shall require the modification of the approved use permit.
2. Any expansion of the operating hours for any of the uses shall be subject to a modification of the Use Permit by the Planning Commission.
3. Any physical changes to the interior of the building that change the square footages of any of the uses will require the approval of a modification of this use permit.
4. Any exterior changes to the building, other than the erection of permitted signs, will require the approval of a design review application by the Planning Commission. Changes subject to review include but are not limited to new lighting, planters, any new structures or storage containers, outdoor furniture, etc.
5. Prior to issuance of any building permits for the building remodel the applicant shall obtain a lot line adjustment from the Town and record an approved lot line adjustment map at the Marin County Recorder's Office.
6. The area within the arbor at the front of the building is approved for use by the Bicycle Museum for either an outdoor area for employees to gather, display museum items, or hold seminars related to bicycles during the day and shall be limited to occurring with the arbor structure.
7. The pathway from the office area to the Clause Drive sidewalk shall be differentiated from the adjacent parking spaces either with colorized/stamped or other method acceptable to the Director of Planning and Building Services.
8. The parking lot shall be restriped prior to the project final inspection and issuance of the occupancy permit. The small and large loading spaces shall be marked as such.
9. The applicants shall do one of the following prior to the project final inspection/certificate of occupancy; 1) provide a historical letter of action and approved plans from the Town showing that the roofed shade structure and attached panels at the rear of the property received design review approval and a building permit; b) remove the corrugated metal roof and what appear to be unnecessary screening panels; or c) legalize the corrugated metal roof and screening panels by obtaining design review approval and a building permit for the improvements.
10. The applicant shall obtain a sign permit from the town prior to erecting any signs on the building or the property.

11. Changes in the business hours that will result in any of the businesses operating before 8:00 AM or after 7:00 PM will require a modification of the approved Use Permit.
12. The applicants shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces.
13. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
14. The applicant or permit holder shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Town Council, Planning Commission, Planning Director, Design Review Board or any other department, committee, or agency of the Town concerning a development, variance permit or other land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permit holders duty to so defend, indemnify, and hold harmless shall be subject to the Town promptly notifying the applicant or permit holder.
15. The applicants shall obtain a tree removal permit from the Tree Committee prior to removing the tree on the eastern side of the building if required.
16. Conditions of other agencies or departments shall be complied with unless said agency or department notifies the Department of Planning and Building Services that the condition is no longer a requirement.

### **Building Official Condition**

A lot line adjustment must be approved and the map recorded at the Marin County Recorder's office prior to *issuance* of any building permits for the office or the wholesale kitchen areas.

### **Ross Valley Fire Department Conditions**

1. An automatic sprinkler system will need to be installed as well as a full fire alarm system. The current system may be able to be modified to meet current requirements.
2. A lot line adjustment is required in order for the project to comply with building and fire codes.
3. A certificate of occupancy must be obtained from the Fairfax Building Department prior to any of the spaces in the building being occupied.

**Ross Valley Sanitary District Condition**

A connection permit is required from the District and the required size of the sewer lateral will depend on the fixture count calculated during the building permitting process. If the existing lateral is the appropriate size it will need to be tested in the presence of a District Officer and found to meet District requirement, or a new lateral will need to be installed.

**Marin Municipal Water District Recommendations/Conditions**

1. The District recommends installation of a separate water meter for the residential unit.
2. All into and outdoor improvements, including landscaping and irrigation, must comply with District Code Title 13, Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements and landscaping plans must be reviewed and approved by the District for compliance.
3. Should backflow protection be required, it shall be installed as a condition of water service.

**NOW, THEREFORE BE IT RESOLVED**, the Planning Commission of the Town of Fairfax hereby finds and determines the approval of the Conditional Use Permit can occur without causing \*significant impacts on neighboring businesses or residences.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of July 2013, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Chair, Shelley Hamilton

Attest:

\_\_\_\_\_  
Jim Moore, Director of Planning and Building Services

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